

Introduction

In the late 1960's the War on Drugs movement began, paralleling the civil rights protests, with the hope of reestablishing law and order at a chaotic time.¹ As it was, this chaotic time left many people unemployed and stressed who subsequently turned to drugs as an outlet. A thirty-year chronology of the war on drugs presented by PBS provides that "Drug use became representative of protest and social rebellion."² The average unemployment rate for men over 20 jumped from 4.1 percent in 1979 to 5.9 percent in 1980. Moreover, for whites the 1980 average unemployment rate was 6.3 percent compared to the average of 14.2 percent for black men.³ This nourished a black underclass, characterized by poverty, lack of education and employment. The discovery of "crack" transformed cocaine from a drug primarily used by wealthy, club-going whites to a drug prevalent in the impoverished inner city ghettos. The Federal Government viewed it essentially as an epidemic, responding accordingly. As the circumstances are viewed from a position of analysis, a connection is seen between the maintenance of a black underclass and these laws. On average, black men are sent to prison for drug convictions at a rate 13 times greater than white men.⁴ In 2005, 45% of those convicted for drug charges were black whereas a mere 29% were white. Black males make up about 6% of the U.S. population.⁵

¹ Elizabeth Hull, *The Disenfranchisement of Ex-Felons* (Philadelphia, PA: Temple University Press, 2006), 24.

² "Drug wars: thirty years of America's drug war," *PBS*, n.d., <http://www.pbs.org/wgbh/pages/frontline/shows/drugs/cron/> (accessed December 31, 2009).

³ United States, Department of Labor. "Employment and unemployment: a report on 1980," Statistical Report, February 1981, www.bls.gov/opub/mlr/1981/02/art1full.pdf (accessed November 9, 2009).

⁴ Jamie Fellner, et al, "Punishment and Prejudice: Racial Disparities in the War on Drugs," <http://www.hrw.org/legacy/reports/2000/usa> (accessed November 9, 2009).

⁵ United States, Census Bureau. "We the People: Blacks in the United States," August 2005, <http://www.census.gov/prod/2005pubs/censr-25.pdf> (accessed January 2, 2009).

Adding to this, the further impact of disenfranchisement. Regardless of political party, it is unusual within a Constitutional, Representative Democracy to tolerate the modern existence of a law that has proven to not only impact, but also disenfranchise a disproportionate percentage of an historically disadvantaged race.⁶ This essay details the War on Drugs in its historical context. Cocaine laws are the primary focus - analyzed to assess the impact on black males. The disparities and the resultant disenfranchisement will show the significance of the problem for all in “the land of the free”⁷

⁶ Hull, *Disenfranchisement of Ex-Felons*, 25.

⁷ Francis Scott Key, “Defense of Fort McHenry,” (n.p.,1814).

Background

President Richard Nixon officially declared the War on Drugs in 1971. Nixon's first contributions show support treatment rather than increased enforcement or harsh punishment. The Nixon Administration supported a D.C. physician's methadone program, which proved to decrease robberies in D.C. by 41% after just one year. Nixon also created the Special Action Office for Drug Abuse Prevention that again showed support for treatment over punishment.⁸ However, Nixon later established the D.E.A. (Drug Enforcement Administration) and Drug Abuse Law Enforcement, agencies both dedicated to prosecuting drug crimes. Nixon resigned and after some instability in the presidential seat for a while, Jimmy Carter was elected president in 1977. Carter campaigned for the decriminalization of marijuana and also appointed a special assistant for health issues who viewed neither marijuana nor cocaine as a serious public health threat.⁹ The Nixon mindset of enforcement and stiff penalties was continued throughout the presidencies of Ronald Reagan and then George H.W. Bush, both reining under the traditions of conservatism.¹⁰ Reagan is especially noted for his commitment; in 1982 he announced dramatic budget cuts in order to allocate more money to the War on Drugs. The F.B.I. anti-drug monies went from eight million dollars in 1980 to \$95 million dollars just 4 years later.¹¹ A New York Times cover story brought the crack cocaine epidemic to national attention in 1985 with the devastating effects seen in New York's inner city neighborhoods. The actions of the past presidents together show the mass attention given to this issue.

⁸ "Timeline: America's War on Drugs," *National Public Radio*, April 2, 2007, <http://www.npr.org/templates/story/story.php?storyId=9252490> (accessed November 9, 2009).

⁹ "Drug wars."

¹⁰ Hull, *Disenfranchisement of Ex-Felons*, 24.

¹¹ Doris M. Provine, *Unequal Under Law: Race in the War on Drugs*. (Chicago, University of Chicago Press, 2007), 103.

Following these Republican presidents, Democrat Bill Clinton came into office in 1993. Many people characterized Democrats as being “soft on crime” and Clinton wanted to avoid this.¹² In his mission Clinton contributed greatly to the War on Drugs by increasing police forces and expanding prisons accordingly. The Canadian Foundation for Drug Policy says that Clinton’s contributions to the War on Drugs are possibly worse than those of Regan or Bush. Clinton pushed enforcement to the extreme, which is shown through the dramatic increase in the prison population. During Clinton’s presidency the number of people incarcerated on the local, state and federal level increased 65%, from 1.3 million to over 2.0 million.¹³

¹² Hull, *Disenfranchisement of Ex-Felons*, 25.

¹³ Peter Gorman and Bill Weinberg, “The Clinton Drug War Legacy,” Canadian Foundation for Drug Policy, February 1, 2001.

Crack vs. Powder Cocaine

In response to the crack epidemic of the 1980's, Reagan signed the Anti Drug Abuse Act in 1986; part of an "omnibus drug bill" allocating money to drug-treatment, prisons, and prevention education.¹⁴ The Act set a mandatory minimum sentence for cocaine possession, which, according to the PBS timeline was the bills most consequential action. The mandatory minimum was suggested by the sentencing commission that was created as part of the Sentencing Reform Act of 1984. The commission had authority to declare sentencing guidelines in federal courts. These guidelines established minimum sentences for certain offences and allowed judges no discretionary power.¹⁵ Regarding cocaine, the mandatory minimum established that possession of five hundred (500) grams of powder cocaine is equally punishable to five (5) grams of crack cocaine, carrying a minimum 5-year sentence.¹⁶ The act passed through both houses of congress with huge support from both sides. The Federal Government strongly suggested that states follow and even gave incentives.¹⁷

The government does not typically throw out random numbers and attach some meaning to them. To understand why a 1:100 ratio was established, the two cocaine types are here studied side-by-side. The National Institute on Drug Abuse facts sheet describes cocaine as a nervous system stimulant that allows the levels of dopamine to build up causing euphoria for the user.¹⁸

¹⁴ "Drug wars."

¹⁵ Floyd D. Weatherspoon, *African-American Males and the Law: Cases and Materials* (Maryland, University Press of America, 1998), 129.

¹⁶ "ACLU Releases Crack Cocaine Report, Anti-Drug Abuse Act of 1986 Deepened Racial Inequality in Sentencing," <http://www.aclu.org/drug-law-reform/aclu-releases-crack-cocaine-report-anti-drug-abuse-act-1986-deepened-racial-inequity>

¹⁷ Provine, *Unequal under law*, 92.

¹⁸ United States, National Institute of Drug Abuse. "Crack and Cocaine," Facts sheet, June 2009, <http://www.nida.nih.gov/infofacts/cocaine.html> (accessed November 9, 2009).

The Merck Manual distinguishes the powder and crack forms of cocaine in that the effects differ with different modes of usage. While both make the user feel hyper stimulated and euphoric, powder cocaine causes less of this feeling. Crack is considered a more volatile form, made by adding sodium bicarbonate and heat, that is smoked so the user experiences a quicker, more intense high.¹⁹ Crack takes about 10 seconds to kick in whereas powder takes from 3-5 minutes.²⁰ The United States Department of Justice separates the two on the basis that the addiction seems to develop more quickly with crack. On top of the associated effects of powder cocaine, crack can cause lung trauma and bleeding. Also, crack users more commonly experience psychotic behaviors.²¹ While two seemingly reliable sources make the same classification of crack cocaine as slightly worse than powder, there is no evidence showing crack to be 100 times as dangerous as powder cocaine. If a person smokes a gram of crack, the effects will not be as severe as if they snort 100 grams of powder cocaine. The rationale for this ratio is questioned in Judge Clyde S. Cahill's opinion delivered for *United States v. Clary*. Judge Cahill declared that congress has no hard evidence to support the contentions that crack is 100 times more potent or dangerous than powder cocaine, writing, "COCAINE IS COCAINE. Neither should be punished less than or more than the other: they are equal in their harm to society and destruction of individual lives and the punishment should be the same for both."²²

¹⁹ "Cocaine: Drug Use and Dependence," July 2008, *Merck Manual*.

²⁰ United States, Department of Justice. "Powdered Cocaine Fast Facts," April 2003, <http://www.justice.gov/ndic/pubs3/3951/index.htm> (accessed May 15, 2009).

²¹ United States, Department of Justice. "Crack Cocaine Fast Facts," April 2003, <http://www.usdoj.gov/ndic/pubs3/3978/index.htm#Top> (accessed May 15, 2009).

²² Weatherspoon, *African-American Males and the Law*, 148-49.

In *Law and Contemporary problems* Joseph E. Kennedy looks for an explanation of this, asking, “Do we punish the sale of crack cocaine so severely because of the effects of the drug or because of the race of those using it most openly?”²³ Kennedy’s assertion is connected to this idea of a black underclass; keeping blacks poor, shoving them into project homes infested with crack cocaine. The harmful effects of crack and powder cocaine are so similar that understanding the effects does not provide a rationale for the 1:100 ratio. In allowing this, it is clear that Congress paid little attention to the fact that crack is a derivative of powder cocaine.²⁴ If the powder form didn’t exist, crack couldn’t exist. From this, it would seem more logical for the government to focus on the root cause, powder cocaine. Supporting this is the opinion of Judge Clyde S. Cahill in *United States v. Clary*. Judge Cahill agrees with the above logic, saying that the law should target “high level traffickers” as this would reduce the wholesale distribution of powder cocaine and this would consequently reduce the existence of crack as a derivative product.²⁵ Judge Cahill says that, “the dividing line between crack and powder cocaine is indistinct and arbitrary.”²⁶ In the case cited above, the opinion provides an example of a federal judge who has stepped back and said that the 1:100 ratio is bad. Timothy Egan for the New York Times reports that, “kingpins at the top of a drug network who sell pounds of powder cocaine for processing often serve less time than street-level dealers who sell grams of crack.” The main point here is that while crack is cheaper and possibly slightly more euphoric, the damage is not 100 times worse than that of powder and that this law does not accurately reflect the two forms of the drug.

²³ John Kennedy, “Drug Wars in Black and White.” *Law and Contemporary Problems* 66 (2003): 153.

²⁴ Weatherspoon, *African-American Males and the Law*, 151-53.

²⁵ *Ibid.*, 160.

²⁶ *Ibid.*, 148-49.

White vs. Black Usage

It is necessary to explore the possibility that blacks may simply just possess drugs at a higher rate than whites as this could offer an explanation why a disproportionate percentage of blacks are incarcerated for drug charges. Yearly, between 60 to 1,146 out of every 100,000 black males will be sent to jail for drug offenses, whereas, between only 6 to 139 out of every 100,000 white males will.²⁷ A 2008 report by the U.S. Department of Health and Human Services shows that an estimated 43.1% of blacks have used illicit drugs in their lifetime and that approximately 50.3% of whites have used illicit drugs in their lifetime²⁸ That is, a higher percentage of whites use drugs than blacks so this does little to explain why blacks are overrepresented in jail. With crack, however, there is a higher percentage of blacks that use crack cocaine than whites but in absolute numbers, twice as many whites as blacks use crack and three times as many white as blacks use powder cocaine.

Upon its discovery, crack planted its roots into the urban cities that were bustling with poor blacks. Crack was a cheaper alternative to powder and quickly became popular in these communities where the harmful effects were most visible.²⁹ Kennedy cites this as the reason so many black men are arrested for drug offenses; saying that law enforcement naturally and logically focus on these areas because selling crack on the street or in crack houses will attract disproportionate attention. Kennedy's point is that the criminal justice system will only find crime in the places that they search for it.³⁰ In his argument Kennedy shines light on the existence of prejudice in the justice system. On top of this Kennedy explains that the justice system has put itself in a position to be viewed as racist by not targeting white users and sellers

²⁷ Fellner, "Punishment and Prejudice."

²⁸ See Table 680, illustrations p. 19.

²⁹ Kennedy, "Drug Wars in Black and White." 153.

³⁰ Ibid., 154.

as aggressively as black users and sellers; causing the drug problem to appear as a black problem.³¹ The result of all this has been nearly 90% of people incarcerated for crack offenses is black.³²

A report produced in the state of Wisconsin, *Race and Sentencing*, provides that in 1991, blacks represented 58% of drug offenders in prison while they only made up 40% of those arrested for drug offenses. The report tells that the arrest rates do not mirror the rate of use because minorities are at greater risk for arrest than whites.³³

Consider the above next to the fact that only about 14.8% of the white population makes under \$25,000/year whereas that percent for the black population is a whopping 32.1%.³⁴ This is only a consideration that must be made to see why blacks turn to drugs to prosper. Whereas, blacks make up a higher percentage of crack cocaine users, they also have many more contained in the low class. As discussed previously poverty is a major contributor to drug use or dealing. This will be touched on further in the section regarding the 'black underclass'.

While the specifics of the statistics have been analyzed above, Barnes and Kingsnorth persist otherwise, that if a particular type of drug has harsher penalties associated with it than other drugs and if a particular racial group comprises most of the users of that drug, then even a race-neutral application of the law will result in harsher penalties for that racial group and higher

³¹ Ibid.,153.

³² Timothy Egan, "War on Crack Retreats, Still Taking Prisoners," New York Times, February 28, 1999, <http://www.nytimes.com/1999/02/28/us/war-on-crack-retreats-still-taking-prisoners.html?pagewanted=1> (accessed December 31, 2009).

³³ United States, Wisconsin Sentencing Commission. "Race & Sentencing in Wisconsin: Sentence and Offender Characteristics Across Five Criminal Offense Areas," Report, August 2007, <http://wsc.wi.gov/docview.asp?docid=11696> (accessed May 17, 2009).

³⁴ See Table 1.19B, illustrations p.19.

representation in prison.³⁵ Problem is the law does not accurately portray the two drugs. Dr. Douglas C. McDonald, a senior scientist for a social policy research group, considers this, saying, “The racial disparity would disappear if the law treated the powder and crack form of cocaine equally.” McDonald has testified before congress on this issue. He puts forth that if enforcement were evenly applied, more whites than blacks would go to prison.

Racism Within the Government

If the 1:100 ratio is not reasonably explained through the severity of crack in comparison to powder then it bares importance to question the intentions of the political officials responsible for establishing, enabling and enforcing this ratio. Looking back to Reagan’s presidency, he reasoned that these drug policies were saving the public from street crime, welfare fraud and drug dealing. In the text *Unequal Under Law: Race in the War on Drugs*, Doris Provine asserts that these issues were not perceived as urgent at the time but focused on because of the political message that they spread. Provine calls this a “political strategy”, in that it took advantage of the racial tensions by “polarizing the electorate along racial lines” and getting at the public’s moral being. Charging that Reagan focused on crack within his anti-drug campaign because of the possibility of media attention and the ease of exploiting “restless black youth” and connecting them to crime.³⁶ This tactic used by Reagan, whether intentional or not, instilled fear of blacks within society and created the image of black men as criminals. This fear has allowed the over-incarceration of blacks to slip by officials as necessary because they are viewed as “dangerous

³⁵ Carole Wolff Barnes and Rodney Kingsnorth, “Race, Drugs, and Criminal Sentencing: Hidden Effects of Criminal Law,” *Journal of Criminal Justice* 24 (1996): 40.

³⁶ Provine, *Unequal under law*, 104.

and unrehabilitatable”; jail is the only place for them.³⁷ This provides a possible reason why responsible officials allow this obvious disparity to thrive.

The justice system proves to be a more complex process for black offenders. After the initial arrest the majority of blacks don't have access to a 'good' attorney and are stuck with overworked public defenders.³⁸ Where white-suburban drug dealers can afford a pricey lawyer, blacks are again disadvantaged (or more accurate, unfair). With the lack of advantage, blacks are commonly slapped with longer sentences and harsher penalties, even with respect to the equivalency of the severity of crime and their criminal backgrounds. In 2005 The Sentencing Project released a report that examined the direct effect of race on sentence length with data compiled since 1980. The data shows that at the state level 43% indicated harsher sentences for blacks and at the federal level 68% indicated harsher sentences for blacks.

It is clear that this law is unfairly disadvantageous to blacks, men in particular. In the case *United States v. Hassan Majied*, Majied argued that this disproportionate impact on young black males denies them equal protection of the laws and due process. The opinion agreed with Majied in that, “members of the African-American race are being treated unfairly in receiving substantially longer sentences than Caucasian males who traditionally deal in powder cocaine” adding that, “this disparity simply is not justified by evidence.” This case places no blame on Congress or political officials, saying that they could not have predicted the possibility of a disparate impact. The decision was made that the court can exercise discretion and depart from the established guideline range when necessary.³⁹

³⁷ Weatherspoon, *African-American Males and the Law*, 172.

³⁸ Hull, *Disenfranchisement of Ex-Felons*, 26.

³⁹ Weatherspoon, *African-American Males and the Law*, 136.

Unable to avoid the fact that this disparity does exist, Director of Drug control policy under Bill Clinton, General Bill R. McCaffrey defends that, “I don’t think we got into this fix because of racism,” pointing to mere coincidence.⁴⁰ However, the lead lawyer on the House Judiciary Committee who helped write these laws, Eric Sterling, is anything but defensive of the law when he looks back; “there was a level of hysteria that led to a total breakdown of the legislative process.” Sterling now works as the president of the Criminal Justice Policy Foundation in Washington where he is working to overturn these laws.⁴¹ Considering Reagan’s tactics aside what Sterling said there is more understanding at to why these laws were established in the first place. Reagan took advantage of racial tensions at the time, thus the laws may be said to have racist undertones.

⁴⁰ Egan, “War on Crack Retreats.”

⁴¹ Ibid.

The Black Underclass

The concept of a black underclass explains both why crack became prevalent in the black community, and how the disparity in the law maintains this black underclass. These are important because they show a cycle that is practically inescapable. Mathew F. Leitman writes, “Past discrimination in housing, employment and education has contributed to the creation of a black underclass.” Citing this placement in society as the reason why many black men see dealing crack as the only way to make a living and achieve a feeling of importance, most likely absent in their childhood.⁴² Furthermore, that poor black youth gain no self worth in these conditions and see little chance for prosperity.⁴³ Born into this underclass, many black youth turn to doing what their fathers are possibly imprisoned for, drugs, specifically crack which is cheap and available in these depressed communities. This is the tragedy of it all, a cyclic pattern that is further isolating blacks in the poorest parts of America. This is cyclical because even upon release from prison, they cannot find stability in employment and cannot provide for a possible family let alone themselves. Children are being raised in single parent households, in drug-infested communities.

In practice the cocaine laws have forced many of these young black men into prison at a rate disproportionate that of white men, even though the percent of users by race is reverse of the trend in incarceration. This disparity further places burden on the black community as a whole because there are so many imprisoned on drug charges in accordance with this 1:100 ratio.

⁴² Weatherspoon, *African-American Males and the Law*, 131.

⁴³ *Ibid*, 132.

Political Officials Speak Out

The representatives that have stepped back and considered the law's effects show optimism for change. One example of this is North Carolina Representative, Melvin Watts, who calls the disparity existing between whites and blacks in the justice system outrageous and unfair; saying, "We cannot say to black people in the country, 'you deserve to jail for something that white people do not go to jail for'." Watts criticizes Congress for allowing the disparity to continue, mocking them, "let us keep this in effect while we study it some more."⁴⁴ On another level, Massachusetts Representative Barney Frank goes far enough to call the law and those who carry it out 'racist'. Frank says that nobody can deny the policy has been to treat black men much more harshly, arguing that the House of Representatives does not know what's best for blacks because of the overwhelmingly white majority making up the House.⁴⁵ What Frank and Watts say may be an extreme example, but this shows a demand for importance to be placed on changing these laws.

The Sentencing Commission, established by the government to declare sentencing guidelines for federal courts, suggested to Congress in 1995 that they consider how their War on Drugs was impacting races differently. This angered members of Congress who didn't want to seem less sensitive to these issues than members of the Commission. Provine writes on the sparring between Congress and the Commission, saying that the principal opponents to reconsidering these laws were "white Republican members of Congress," who maintained that crack was "very dangerous, cheap and widely available."⁴⁶ These members of Congress are slightly confused it seems. However the issue goes beyond Republican versus Democrat, it is

⁴⁴ Provine, *Unequal under law*, 133.

⁴⁵ *Ibid*, 133.

⁴⁶ *Ibid*, 132.

about human rights; while today's scrutinized politicians do nothing, they allow the existence of racism, intended or unintended.

Disenfranchisement

In addition to the disadvantage placed on the black community with much of the male population absent, blacks are severely underrepresented in the voting process.⁴⁷

Disenfranchisement laws differ between states: 12 states permanently disenfranchise depending on offense, others restore rights after serving parole or probation, and only two states, Maine and Vermont, allow incarcerated felons to vote.⁴⁸ An estimated 3 out of every 10 black men in the next generation can expect to be disenfranchised at some point in their lifetime and in the states that permanently disenfranchise, up to 40% of black men may be affected.⁴⁹

“Racism is the root of felon disenfranchisement laws.” Argues Michael Fauntroy, pointing to the rise of the Republican Party in the South paralleling the imprisonment of blacks. Republicans have used disenfranchisement laws to get an unearned advantage, he continues, because they are scared of waking the sleeping giant; allowing these imprisoned blacks to vote.⁵⁰

⁴⁷ “Felony Disenfranchisement Laws in the United States,”

www.sentencingproject.org/doc/publications/fd_bs_fdlawsinus.pdf

⁴⁸ State Felon Voting Laws,” <http://felonvoting.procon.org/viewresource.asp?resourceID=000286>

⁴⁹ “Felony Disenfranchisement.”

⁵⁰ Michael Fauntroy, “Conservatives and Black Voter Disenfranchisement.”

<http://www.huffingtonpost.com/>

[michael-fauntroy-phd/conservatives-and-black-v_b_51338.html](http://www.huffingtonpost.com/michael-fauntroy-phd/conservatives-and-black-v_b_51338.html).

Jeff Manza and Christopher Uggen say that these laws are a result of efforts to disenfranchise blacks after the Civil War.⁵¹ Adding that, states with higher proportions of blacks in prison are more likely to have strict laws disenfranchising felons.⁵² Saying that, regardless of intention, the effect has been to “dilute African American voting strength.”⁵³

The disenfranchisement laws are ultimately a threat to every American Citizen. Manza and Uggen lay this problem in light of the 2000 presidential election between George W. Bush and Al Gore, saying that, “ election results would almost certainly have been reversed had voting rights been extended to any category of disenfranchised felons.” In Florida alone, approximately 827,000 ex-felons were disenfranchised. If this number were considered alongside the estimated rate of turnout (27.2%) and voting preference (68.9% in favor of Gore), Gore would have secured at least 60,000 additional votes and therefore the presidency.⁵⁴

After the presidency of George H.W. Bush America found itself deep into a war on terror in two countries and in the midst of an economic catastrophe. It cannot be known if “the decade from Hell”, as TIME magazine dubs the first decade of the 21st century, would have been any better if Gore had won. However right before the 2008 presidential election, 43% of Americans strongly disapproved of Bush’s presidency and another 19% somewhat disapproved. That’s 62% of Americans who generally disapproved of Bush.⁵⁵

⁵¹ Christopher Uggen and Jeff Manza, “They’ve Paid Their Debt; Let Them Vote,” *Los Angeles Times*, July 18, 2003, <http://articles.latimes.com/2003/jul/18/opinion/oe-uggen18> (accessed November 9, 2009).

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ “President bush Job Approval,” *Rasmussen Reports*, January 5, 2009, http://www.rasmussenreports.com/public_content/politics/political_updates/president_bush_job_approval (accessed December 31, 2009)

If America is a true representative democracy, in which citizens elected representatives, the majority of citizens should never be in such disapproval. The possibility that these disenfranchisement laws allowed Bush to steal the election where he truly lacked popularity, coupled with his arguably poor choices during his presidency, show how these laws are effecting every person in this nation. While no definite correlation can be made between the republican parties intention and disenfranchisement laws, it seems ‘the sleeping giant’ was kept sleeping.

Progress

As this law is gaining attention in the government there have been serious strides taken towards lessening the racial impact of the drug laws, specifically the crack versus powder cocaine disparity. The Obama administration has joined with federal Judge Reggie Walton in urging congress to equalize prison sentences for both types of cocaine.⁵⁶ U.S. Representative Bobby Scott proposed a bill that would equalize the treatment of the two cocaine types called the Fairness in Cocaine Sentencing Act. The House Judiciary Committee approved the Act and if it moves smoothly through legislation the Act will work towards minimizing the sentencing disparity.⁵⁷

⁵⁶ Larry Marasak, “Obama Crack Sentencing Law Change in Works,” Huffington Post, April 4, 2009, http://www.huffingtonpost.com/2009/04/29/obama-crack-sentencing-la_n_192799.html (accessed November 9, 2009).

⁵⁷ “Newsletter 5,” *Crack The Disparity*, <http://www.crackthedisparity.com/Newsletter5>

Bringing it Together

With all this weighing heavily on the shoulders of America, it is most effective to look towards progress and change instead of dwelling on past failures. Past failures, however, must be understood to ensure they do not reoccur. The presented research allows for an understanding of the disparity caused by the Anti Drug Abuse Act of 1986 explained in terms of other relevant historical happenings. Under primary consideration, how this has impacted black men in America is of further disadvantage to us all terms of disenfranchisement. Hope has not been lost, however, policy changes are underway meaning justice will truly be served and America will really be “the land of the free”.⁵⁸

⁵⁸ Key, “Defense of Fort McHenry.”

Illustrations

Table 680 -

Table 680. Money Income of Families—Percent Distribution by Income Level in Constant (2007) Dollars: 1980 to 2007

[Constant dollars based on CPI-U-RS deflator. Families as of March of following year (60,309 represents 60,309,000). Based on Current Population Survey, Annual Social and Economic Supplement (ASEC); see text, Sections 1 and 13, and Appendix III. For data collection changes over time, see <<http://www.census.gov/hhes/www/income/histinc/hatchg.html>>. For definition of median, see Guide to Tabular Presentation.]

Year	Number of families (1,000)	Percent distribution							Median income (dollars)
		Under \$15,000	\$15,000–\$24,999	\$25,000–\$34,999	\$35,000–\$49,999	\$50,000–\$74,999	\$75,000–\$99,999	\$100,000 and over	
ALL FAMILIES ¹									
1980	60,309	9.3	11.1	11.7	17.7	25.1	13.3	11.7	50,366
1990	66,322	9.1	10.0	10.7	15.8	22.7	14.1	17.6	54,369
2000	73,778	7.3	8.9	9.9	14.6	20.1	15.0	24.2	61,083
2006	78,454	8.1	9.0	10.3	14.2	19.5	13.7	25.3	60,084
2007	77,908	8.0	9.0	9.6	13.7	19.6	14.3	25.8	61,356
WHITE									
1980	52,710	7.9	10.7	12.0	18.4	26.0	13.5	11.8	51,029
1990	56,803	7.4	9.6	10.8	16.6	23.4	14.6	17.5	55,205
2000	61,330	6.3	8.7	9.6	14.9	20.8	15.5	24.3	62,087
2006	64,120	6.6	8.3	9.9	14.2	19.9	14.3	26.7	63,018
2007	63,595	6.4	8.4	9.3	13.6	20.0	14.9	27.3	64,427
BLACK									
1980	6,317	24.0	18.7	13.8	15.5	16.9	7.3	3.7	30,364
1990	7,471	26.0	19.0	12.9	14.2	17.4	7.8	7.7	32,946
2000	8,731	18.4	14.1	13.3	16.1	18.4	9.9	11.9	40,547
2006	9,274	18.4	13.7	13.2	15.3	17.4	9.6	12.6	39,355
2007	9,259	18.5	13.6	12.2	14.9	17.5	10.7	12.7	40,143
ASIAN AND PACIFIC ISLANDER									
1990	1,536	8.2	8.4	8.1	12.3	21.3	15.0	26.7	64,969
2000	2,882	6.4	6.4	7.3	12.0	17.7	16.1	34.1	75,393
2006	3,346	6.4	6.3	7.9	11.2	17.4	13.8	36.9	76,729
2007	3,302	5.9	6.8	7.2	10.6	17.7	14.5	37.3	77,133
HISPANIC ORIGIN ¹									
1980	3,235	16.9	17.7	15.5	16.6	19.1	7.4	4.9	35,256
1990	4,981	17.8	16.9	14.0	17.1	19.0	7.6	7.6	36,034
2000	8,017	13.2	14.8	13.8	17.9	19.4	10.3	10.5	41,469
2006	10,155	13.4	15.3	14.2	17.8	17.8	9.6	11.9	41,135
2007	10,397	13.2	15.2	14.6	16.8	19.0	9.9	11.3	40,566

¹ Includes other races not shown separately. ² Data reflect implementation of Census 2000-based population controls and a 28,000 household sample expansion to 78,000 households. ³ Beginning with the 2003 Current Population Survey (CPS), the questionnaire allowed respondents to choose more than one race. For 2002 and later, data represent persons who selected this race group only and excludes persons reporting more than one race. The CPS in prior years allowed respondents to report only one race group. See also comments on race in the text for Section 1. ⁴ Data represent White alone, which refers to people who reported White and did not report any other race category. ⁵ Data represent Black alone, which refers to people who reported Black and did not report any other race category. ⁶ Data represent Asian alone, which refers to people who reported Asian and did not report any other race category. ⁷ People of Hispanic origin may be any race.

Source: U.S. Census Bureau, Current Population Reports, P60-235 (published August 2008). See also <<http://www.census.gov/prod/2008pubs/p60-235.pdf>> and <<http://www.census.gov/hhes/www/income/histinc/R23.html>>.

Table 1.19B -

90331

Table 1.19B—Illicit Drug Use in Lifetime, Past Year, and Past Month among Persons Aged 12 or Older, by Demographic Characteristics: Percentages, 2007 and 2008

Demographic Characteristic	Lifetime (2007)	Lifetime (2008)	Past Year (2007)	Past Year (2008)	Past Month (2007)	Past Month (2008)
TOTAL	46.1	47.0	14.4	14.2	8.0	8.0
AGE						
12-17	26.2	26.2	18.7	19.0	9.5	9.3
18-25	57.4	56.6	33.2	33.5	19.7	19.6
26 or Older	46.8	48.0	10.6	10.3	5.8	5.9
GENDER						
Male	50.6	51.3	17.4 ^a	16.4	10.4	9.9
Female	41.8	42.9	11.6	12.2	5.8 ^a	6.3
HISPANIC ORIGIN AND RACE						
Not Hispanic or Latino	48.0	48.7	14.8	14.5	8.2	8.3
White	50.3	50.7	14.9	14.4	8.2	8.2
Black or African American	43.1	46.1	16.0	16.9	9.5	10.1
American Indian or Alaska Native	54.6	57.6	18.4	19.5	12.6	9.5
Native Hawaiian or Other Pacific Islander	*	*	13.3	*	*	7.3
Asian	22.8	21.2	7.2	7.4	4.2	3.6
Two or More Races	51.5	56.1	22.1	21.2	11.8	14.7
Hispanic or Latino	34.2	36.4	12.2	12.3	6.6	6.2

*Low precision; no estimate reported.

NOTE: Illicit Drugs include marijuana/hashish, cocaine (including crack), heroin, hallucinogens, inhalants, or prescription-type psychotherapeutics used nonmedically, based on data from original questions not including methamphetamine items added in 2005 and 2006.

^a Difference between estimate and 2008 estimate is statistically significant at the 0.05 level.

^b Difference between estimate and 2008 estimate is statistically significant at the 0.01 level.

Source: SAMHSA, Office of Applied Studies, National Survey on Drug Use and Health, 2007 and 2008.